



# LEGAL EDUCATION IN INDIA-ISSUES & CHALLENGES

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*ABSTRACT: The field of legal education India, is still in the process of transformation and innovation . The issues such as non-uniformity in the structure and pattern of legal education, multiplicity of regulatory bodies and lack of proper coordination and cooperation among them, improper and insufficient involvement of stake holders of the system, failure to build and contribute professional by inculcating research attitude, absence of ethical and moral standards in the curriculum, reluctance of bright students to enter the field are faced by legal education sector.*

*Providing high quality educational institutions both in terms of infrastructure and intellectual environment, bridging urban rural divide, eliminating digital divide, capacity to adjust and adapt to the technological advancement, remoulding and recasting the academic structure by broadening and reinventing the curriculum, providing a vibrant and dynamic clinical legal education integrating it with internships are the challenges before the present system.*

Keywords: legal education, curriculum reform, legal research, skill development.

## 1. INTRODUCTION

The law commission of India, defined legal education as the science, which imparts students, knowledge of contain principles and provisions of law to enable them to enter legal profession, and according to the law commission the aim of legal education is producing lawyers with social conscience<sup>1</sup>.

The history of legal education in India can be traced back to the Vedic period, during which the Vedas, shastras, and smritis were taught in the gurukula method. This method of education imparted knowledge of the

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<sup>1</sup> Legal Education and its aims, available on <http://www.legalservicesindia.com/article/article/legal-education-&-its-aims>( last visited on 18 July 18, 2023)

metaphysical and spiritual world, as well as the rules governing society and human conduct. However, formal legal education, albeit in a rudimentary sense, started in the mid-19th century, precisely in the year 1857, with the establishment of three universities in Calcutta, Madras, and Bombay.

Despite this initial progress, the field of legal education in India is still undergoing transformation, innovation, and reinvention. Until the closing years of the last century, there was not much focus or attention from both academia and the government on legal education. As a result, legal education continues to face numerous issues and challenges. This paper is an attempt to identify this problem and to suggest some remedial measures

## LEGAL EDUCATION IN INDIA ISSUES AND CHALLENGES

With advancement of technology and the impact of globalization, numerous barriers such as political, cultural and economic, have been broken down. Legal education has to respond, react and adjust itself with this scenario of a fast-changing world in which multiple social political economic and cultural issues are arising day by day resulting in a paradigm shift in the concept of ethics, morals, thoughts, beliefs and even law. the issues & challenges before the legal system can only be analyzed in this background

The issues confronted by the legal education system can be roughly classified or stated as be given below.

- (a) failure to attract student community particularly bright students into legal education
- (b) Many law institutions suffer from the absence of an atmosphere of intellectual excitement.
- (c) Non uniform structure & pattern of legal education.
- (d) Multiple regulatory bodies & lack of effective and proper co-ordination between these agencies
- (e) Insufficient involvement of stakeholders of the system.
- (f) Failure to build and contribute high quality professionals to society.
- (g) Absence of ethical and moral standards in the curriculum.

The following paragraphs provide a detailed explanation of the issues mentioned:

- (a) Failure to attract student communities: Only a few years back pursuing legal education was not by choice, but either by accident or by convenience. the reason for this can be found in the poor infrastructural facilities or for the sake brevity and to avoid repetition these issues are discussed together and absence of an intellectual environment in the legal education institutions, the pride and prestige of being a student of law was not much of an attractive proposition earlier. The law studies offered little to students in terms of employment, career

opportunity, future prospects etc. The uncertainty and fluctuating fortunes of the lawyer's profession distracted many students from entering into legal educational field. It is only with the commencement of NSLIUs (national school of India university) the attitude of student community showed a reverse trend.

" Dr.S Radhakrishnan, who later became president of our country once lamented that "our colleges of law do not hold a place all high esteem either at home or abroad nor has law become an area of profound scholarship and enlightened research<sup>2</sup>". The law commission presided over by shri. "M.E. Setalvad" in its 14<sup>th</sup> report in the year 1958, on the subject reform of 'judicial administration' while assessing the standards of legal education obtaining in the country said: "In the parity of ten years elapsed since the publication of Radhakrishnan commission, the position with regard to legal education, it appears definitely deteriorated".

But the success of national law university at Bangalore, started in the year 1987, gave a push and impetus to quality legal education. there were strong demands from various states and politicians of all hues and colour for allotment of such institutions in their states.

further, society needed a legal and judicial system catering to the social economic and political justice for which quality professionals were necessary governments raised to the occasions and began to show focus and attention to the legal education and the entry of private sector into the field also has had an impact on the system.

## REMEDIAL MEASURES.

- 1 More private participation in the establishment of law institutes
2. Encouraging philanthropic efforts in legal education
3. Involving industrial houses and business establishments in establishing and running educational institutions a quality learning space.
4. Providing premium quality learning spaces, the change in the attitude of honorable apex court, with regard to private participation in legal education resulted in the establishment of a high-quality institutions. Many private establishments considered legal education as profit making industry, which prompted the honorable Supreme court to express its concern that education cannot be allowed to be converted into commerce, in the famous case Unnikrishnan J.P and others. v/s state of Andhra Pradesh<sup>3</sup>.

<sup>2</sup> Report of Commission on Higher Education headed by Dr S. Radhakrishnan (1949)

<sup>3</sup> Unnikrishnan J.P and others. v/s state of Andhra Pradesh. (1992) 3 SCC666

In T.M.A Pari foundation V. state of Karnataka.<sup>4</sup> Honorable apex court held that right to establish and administer education is guaranteed under article 19 (1) (g) of the constitution of India and that education falls within the expression 'occupation' mentioned in the said article.

In P. A Indamar v. State of Maharashtra<sup>5</sup>. Supreme Court has held that education is an occupation, whether it be for charity or for profit, but it cannot be equated to a trade or business.

All these verdicts had a profound impact on the entry of private sector into the legal education field while at the same time thwarting the unhealthy trends in the field. more educational institutions by industrial houses, business establishments will bridge the gap between industry and education and will be helpful in providing job opportunities for aspiring students maximum encouragement shall be given to the philanthropical endeavors to establish quality educations to foster memories of an individual or an organization. Dr P.G Nuthing, an American educational reformer in his study on improving the quality of education, recommended higher grade technical and professional schools and a closer relation between pure research of universities and industrial research.

University of Melbourne in the year 2007, had issued nine principles guiding teaching and learning in the institutions which include an atmosphere of intellectual excitement, an intensive research and knowledge transfer culture permeating all teaching and learning activities, premium quality learning spaces, resources and technologies. ensuring these principles and establishment of institutions with good infrastructure will attract bright young students do the hell of legal education

(c) multiple regulatory bodies.

(d) Non uniform structure pattern of education

Another major issue connected with legal education are lack of proper co-ordination and co-operation, between various regulatory bodies. the subject 'education' comes under concurrent list [entry no:25 in list i of schedule vii]. this entry is subject to provisions of entries 63, 64, 65 & 66 of list 1<sup>6</sup>. Entry 66 in list 1 i.e., union list relates to co-ordination and determination of standards in institutions for higher education or research. Entry 26 of the concurrent list deals with legal, medical and other professions. main regulatory agencies of legal education are bar council of India and state bar councils.

University grants commission and for universities, besides state governments and union government. so unless there is coherence and co-operation between these agencies and organs no meaningful reform can be effectuated what is seen today is these multifarious agencies, pull in opposite directions to assert their supremacy

<sup>4</sup> .M. A Pari foundation V. state of Karnataka (AIR 2003 SC 355),

<sup>5</sup> P.A Indamar v.State of Maharashtra AIR 2005 SC 3226

<sup>6</sup> The Constitution of India, art.245-55

In the recognition and affiliation of colleges, and in laying down standards of legal education on most occasions Bar Council Of India and university grants commission are at logger heads. The Bar Council of India (BCI), under section 7(1)(h) of the advocates act 1961, is empowered to promote legal education and lay down standards of such education in consultation with the universities<sup>7</sup>. university grant commission under section 2 (1) of the UGC Act 1956 has also power to exercise control over universities. Proper consultation and cooperation between these bodies are lacking on many occasions, resulting slow progress in educational reforms, curriculum modification etc.

Most universities offer 3 year or 5-year LLB courses, there is no uniformity in the course structure, syllabus, curriculum teaching methods nor in teaching standards etc at all India level. AICTE and MCI have succeeded to an extent in giving a more or less uniform structure to technical education, mechanical education respectively. Legal education instituted must be freed from the control of ordinary universities and UGC and they must be affiliated to law universities at state level and a central university at national level should have supervisory control over these universities the powers given to bar councils, in laying down standards of legal education is to be taken away and to be granted to this central university. The power and functions of bar councils shall be confined to legal profession only.

### Involvement & contributions of stake holders.

At present involvement of various stake holders of justice administrative system is very nominal and for name's sake only. judges, jurists, advocates, advocate clerks, academicians, legal luminaries' public officials under various departments of government include police officials, technocrats in various disciplines such as cyber law, forensic science institutions handling alternate dispute redressal mechanisms such as mediation center legal service authorities, Courts are stakeholders of the system. A systematic and proper and scientific frame work should be invented for the active participation of these stake holders and to share their knowledge and experience.

### Ethical And Moral Standard in Education

An important issue, concerning legal education like other branches of education is the absence of moral and ethical standards. Law does not operate in a vacuum. it operates in society and continuously react with social braces. social facts, mores of the society, people in general look upon lawyers as the guardians of the rights, so inculcating ethical values and morals in the young minds is necessary to build them as responsible citizens, contributing their knowledge to the welfare of the society and towards progress of the nation. Mahatma Gandhi considered education as an all-round drawing out of the best in body, mind spirit. He treated education as a way to enhance and completely develop the physical and spiritual abilities of a human being. Academicians and

<sup>7</sup> The Bar Council of India Act, sec.7(h).

policy makers still believe that it is an area year marked for religion and theology and hence anathema to education system.

An education model on the lines of moral and ethical values will definitely help the students do inculcate eternal values and virtues which stood the test of time. It is profitable & quote the words of Swami Vivekananda that “Education is the manifestation of the divine perfection already existing in man. He thought, it is a pity that the existing system of education did not enable a person to stand on his own feet nor did it teach him self-confidence and self-respect”. Nowadays Bar Councils are receiving large number of complaints against advocates alleging professional misconduct, indiscipline, cheating, impersonation, criminal misappropriation, criminal breach of trust etc. Even students are not getting instructions or teaching as to how they should behave in courts or their attitude towards clients, juniors and knowledgeable persons in their profession.

Pandit Jawahar Lal Nehru believed in scientific knowledge and propagated rationality as the basis of all learning. While considering the issue of broadening one must bear in mind the words of Dillon<sup>8</sup> voted by justice Benjamin Cardozo, in his work the ‘Nature of judicial process’, said that ethical considerations can no more be excluded from the administration of justice which is the end and purpose of all civil laws than one can exclude the vital air from his room and live.<sup>9</sup>”

### Challenges faced by present legal education system and solutions.

In the present a world of high competition and fast changing social values and concepts. Legal education has to face challenges thrown by the forces of technology new cultural and social values, and social forces.

SOME IMPORTANT CHALLENGES BEFORE THE LEGAL EDUCATION ARENA ARE

1. Ability to adjust with the technological advancement & development of proper framework to adapt the technological know-how..
2. Bridging the urban - rural divide
3. Eliminating digital divide
4. Building high grade institutions
5. Inculcating research attitude among students
6. Broadening the curriculum
7. Restructuring the LL.B course structure in the context of National Education policy 2020

<sup>8</sup> Dillon “Laws and Jurisprudence Of England and America” p:18 quoted by Pound, 27 Harvard L.R. 731, 733

<sup>9</sup> Benjamin Cardozo ‘Nature Of Judicial Process’ P.71 (Yale University Press, 1921)

8. Reinventing internship program and integrating it with clinical legal education.

9. Maintaining proper academic calendar

Since the first five points are interrelated, these points are going to be discussed together. even universal elementary education still remains as distant dream in India due to various factor such as male centric approach of our society towards acquisition of knowledge, age old beliefs and notions of people, extreme poverty, an oppressive caste system, a rigid feudal social order, still prevailing in major places of our country have contributed to this state of affairs. According To Mahatma Gandhi, a perfect and good development model is one in which the last man in the queue ie. the most destitute gets the benefit and he called it as “Antodaya”. This is analogous to the most deprived one gets the fruits of knowledge. the famous writer Francis bacon said “knowledge is power”. The architect of our Indian constitution, Dr. BR Ambedkar observed that education will liberate all. still, only few students are coming from rural areas, and this problem can be addressed by reserving a certain problem percentage of seats to students coming from rural special incentives, scholarships and fee concessions may be provided to such students

Another concern is the digital divide among students as well as legal education institutions. As discussed earlier nine principles guiding, teaching and learning formulated by university of Melbourne include a premium quality learning spaces resources and technologies concern and support for Individual development.

A study by Mary Weishaar, professor of Special education eastern Illinois university, suggested that students with special needs must be offered regular education with supplemental aids and services and that decisions should be made in the student’s best interest and should always be individualized<sup>10</sup>. Though this study is in respect of differently abled students can be imparted in the case of rural students and students with technological know-how these students may be provided with computer gadgets, laptops, smartphones etc free of cost so as to enable them to get easy access to internet & digital world.

Lev Manovich famous media critique defined New media or digital media as new cultural form, non-access to social media platforms, internet, and digital knowledge results in cultural divide among students and retards the process of integration & organization of student community as a whole. corporate social responsibility funds and philanthropic efforts can be made else or to do address this problem.

Some factors which distracted many a student in the past, from law schools are poor infrastructural facilities, failure to provide a vibrant and enthusiastic learning environment intellectual atmosphere inculcating research attitude, lack of advanced technological resources, well equipped library and other learning spaces. library well equipped with large volume books, journals, digests, commentaries manned by educated people is a must for every law school. such a library should have attractive features such as free flow of air and light, sufficient

<sup>10</sup> Weishaar, Mary Konya , (Boston, MA : Pearson, 27<sup>th</sup> edn, 2005)

space proper cataloguing and arrangement of books, uninterrupted power supply and internet facility technological resources at such as e-books, web-based learning platforms, etc. all law schools should provide facilities for open online courses, like swayam, swayam Prabha, which is a DTH facility which transmit knowledge and information & theme of the nook and corner of the country, EDUSAT, a channel imparting education through satellite channel etc. High quality education institutes employ various student assessment platforms or programs such as LMS and CMS and LXPSARE (learning experience platforms which are the next generation of LMS which uses artificial intelligence technology, to give an immersive experience to student and is more student centric

### Curriculum related challenges.

New education policy formulated in the year 2020, offers new opportunities and also poses some challenges to the present education sector. it offers multiple entry and exit points, imaginative and flexible curriculum structures, while providing rigorous research based specialization an opportunities for much disciplinary work (vide para 11.5) the challenge before the legal education sector is whether to adopt the course structure and curricular structures. mentioned in the education policy or not. Other challenges are whether to continue with the other present system of 5 year and 3 year courses or to integrate these schemes into one

it is John Dewey an American, psychologist, educational reformer and a supporter & proressive education who first advocated interdisciplinary education. new education policy also gives emphasis on this aspect. an adaptive curriculum or broadening of curriculum has always been a matter of attention for all educational reformers since law is a social science, a multidisciplinary approach is very much essential in the preparation of curriculum by legal studies but we went too far in incorporating disciplines in the study of law. Too much emphasis on multidisciplinary studies has a cascading effect on the study of the main subject law this approach has a negative impact in the sense that students get unfocussed and non-directional in their approach to main subject. lot of time and efforts otherwise needed to study the subject law are wasted by incorporating so much disciplines of study in the curriculum structures the challenge is to select proper disciplines, to apply to judicious mix, to give reasonable and just proportion to various discipline in LLB courses.

New education policy raises serious challenges with regard to curriculum development para 20.4 of the policy states that legal education needs to be competitive globally, adopting best practices and embracing new technologies. the policy mandates that legal education must be informed. and illuminated with constitutional values of justice, social, economic and policies and directed towards national reconstruction. the challenge before legal education sector is to incorporate these ideals and principles in the curriculum and course structure to give it a practical shape.

### Academic Calendar, Internship And Clinical Legal Education

Though many universities maintain academic calendar, there is using a cursory and passive approach to the same. A proper academic calendar gives focus to student activities and helps them to plan and organize their

studies. A full-fledged internship program in the lines of houses urgency in medical profession is missing in legal education. The real challenge is to integrate internship clinical legal education. Clinical legal education is a multi-disciplined, multipurpose education which enables student to acquire necessary practical skills and knowledge to face future challenges, in profession or effectively and helps & acquaint with the justice delivery system. At present internship program in many universities is not well organized and scattered throughout the course. Hence a continuous learning practical knowledge is missing. Instead of distributing internship program across so many semesters a full-fledged internship in the lines of medical profession is advisable.

An internship program should be taken both by student and & faculty members, seriously instead of giving a mechanical and casual approach involvement of faculty members and stake holders of the system should be ensured. The report published by the American bar association in 1992, acknowledged as Mac Crate report which was titled Task Force on Law Schools and the profession narrowing the gap is still relevant in the field of internship. The report highlights eight legal skills, which include legal research be Factual Investigation communication counseling negotiation Etc A full-fledged one-year whole course of internship will meet the challenges faced by student while entering their profession.

## Conclusion

It is true that Indian Legal Education system is still facing several issues such as poor infrastructure facilities absence of academic brilliance and intellectual environment, lack of technological resources, absence of research and knowledge transfer culture, lack of high grade institutions etc. It has to meet various challenges, born as a result of technological progress ever changing social facts globalization changes in the beliefs and mores of the society. but it is heartening to note that governments, academicians, and regulatory agencies are giving a serious thoughts to these issues and challenges regulatory agencies keep strict watch on the quality of law schools and academic standards. Nowadays bright student are attracted to legal education. Importance given by media to legal affairs, and attention and interest shown by public in law related matters have enhanced in the prestige of legal education. the entry of private sector in the field and the healthy competition from government colleges and involvement of academicians of brilliance, erudition and scholarship have put legal education on the front stage. The new education policy offers high scope and avenues for development of legal education. we all hope that legal education in India will create as Aristotle said “sound minds in a sound body”.

we all hope that legal education in India will as Aurobindo Ghosh, the revolutionary turned saint, said, offer the tools whereby one can live for the divine, for the country for oneself, and for others and this must be the ideal of every school which calls itself, National.

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